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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA
17 San Francisco Division

18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 WELLNESS SUPPORT NETWORK,
22 INC., a corporation,

23 ROBERT HELD, individually and as
24 an officer of Wellness Support
25 Network, Inc., and

26 ROBYN HELD, individually and as
27 an officer of Wellness Support
28 Network, Inc.,

Defendants.

Case No. 3:10-cv-4879 JCS

Hearing Date: TBD
Courtroom A, 15th Floor

**STIPULATION TO REVISE
SCHEDULE; DECLARATION OF
LAURA FREMONT IN SUPPORT**

22 **I. INTRODUCTION**

23 On October 28, 2010, Plaintiff Federal Trade Commission (FTC) filed its
24 Complaint (Dkt #1) in this matter. On the same day, the Court entered an initial
25 order (Dkt #3), which, among other things, (1) set January 14, 2011, as the last
26 day to meet and confer regarding initial disclosures, early settlement, ADR, and a
27 discovery plan; (2) set January 28, 2011, as the last day to file the Rule 26(f)
28 Report, complete initial disclosures or state objection in Rule 26(f) Report, and to

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1 file a Case Management Statement; and (3) set February 4, 2011 as the date for
2 the Initial Case Management Conference.

3 After the Court entered that Order, the parties filed a stipulation (Dkt #5) to
4 (1) extend to December 29, 2010, the deadline for Defendants to file an Answer
5 or to file papers responsive to the Complaint; (2) set January 14, 2011, as the
6 deadline for Plaintiff to file its opposition to any papers filed by Defendants
7 responsive to the Complaint; and (3) set a February 4, 2011, hearing on
8 Defendants' papers filed in response to the Complaint. The Court so ordered on
9 November 29, 2010 (Dkt #6).

10 The parties have recently conferred and concluded it is likely that, prior to
11 filing their Answer, the Defendants will file motions responsive to the FTC's
12 Complaint, and that once Defendants answer the Complaint, the FTC may file
13 motions relating to Defendants' Answer. Accordingly, the current deadlines to
14 meet and confer regarding initial disclosures, early settlement, ADR process
15 selection, and discovery, to complete initial disclosures, to commence the ADR
16 process, to file a Rule 26(f) Report, and to file a Case Management Statement
17 will take place before the Court makes a determination regarding such motions
18 and before the Defendants have filed their Answer to the Complaint. The parties
19 believe that the Court's rulings on matters relating to the pleadings will affect the
20 focus and framing of issues in this case. Once the Court has made its
21 determinations, the parties will be able to more accurately assess and agree upon
22 such matters as discovery, scheduling, the facts and legal issues that remain in
23 dispute, prospects for settlement, narrowing of issues, and other matters the
24 parties are required to address in their Case Management Statement. Thus, in
25 order to preserve the limited resources of the parties and the Court, and pursuant
26 to L.R. 6-2 and L.R. 7-12, the parties respectfully request that the deadlines set in
27 the *Order Setting Initial Case Management Conference and ADR Deadlines* (Dkt
28 #3) be extended by 90 days. The proposed schedule is set forth below.

1 **II. PROCEDURAL HISTORY**

2 On October 28, 2010, Plaintiff FTC filed its Complaint in this matter (Dkt
3 #1). On the same day, the Court issued its *Order Setting Initial Case*
4 *Management Conference and ADR Deadlines* (Dkt #3), which, among other
5 things, set the following initial schedule:

6 1. January 14, 2011, last day to:

7 • meet and confer re: initial disclosures, early settlement, ADR
8 process selection, and discovery plan
9 • file ADR Certification signed by Parties and Counsel
10 • file either Stipulation to ADR Process or Notice of Need for
11 ADR Phone Conference;

12 2. January 28, 2011, last day to file Rule 26(f) Report, complete initial
13 disclosures or state objection in Rule 26(f) Report and file Case Management
14 Statement; and

15 3. Initial Case Management Conference on February 4, 2011.

16 On November 29, 2010, pursuant to *Joint Stipulation Regarding*
17 *Defendants' Extension of Time to File Papers Responsive to Complaint;*
18 *Plaintiff's Extension of Time to File Opposition to Defendants' Papers*
19 *Responsive to Complaint; and Date for Hearing on Defendants' Papers*
20 *Responsive to Complaint* (Dkt #5), the Court entered an Order (Dkt #6) which,
21 among other things, extended from November 26, 2010, to December 29, 2010,
22 the deadline for Defendants to file an Answer or papers responsive to the
23 Complaint (Dkt #6). The Order also set a deadline of January 14, 2011, for
24 Plaintiff to file its opposition to any papers filed by Defendants responsive to the
25 Complaint, and set a February 4, 2011, hearing on Defendants' papers filed in
26 response to the Complaint. Left intact were the dates set in the Court's prior
27 *Order Setting Initial Case Management Conference and ADR Deadlines* (Dkt
28 #3).

1 **III. PROPOSED REVISED SCHEDULE**

2 The parties propose the following modifications to the current schedule for
 3 this case, in order that the parties can prepare their initial disclosures, discovery
 4 plan, and Case Management Statement after the Court has ruled on any motions
 5 Defendants may file relating to the Complaint, after the Defendants have filed
 6 their Answer to the Complaint, and after the Court has ruled on any motions
 7 Plaintiff may file relating to Defendants' Answer:

8 Event	9 Current Date	10 Proposed Date
11 Last day to: 12 • meet and confer re: 13 initial disclosures, 14 early settlement, 15 ADR process 16 selection, and 17 discovery plan 18 • file ADR 19 Certification 20 • file either 21 Stipulation to ADR 22 Process or Notice 23 of Need for ADR 24 Phone Conference	1 1/14/11 [pursuant to <i>Order</i> <i>Setting Initial Case</i> <i>Management Conference and</i> <i>ADR Deadlines</i> (Dkt #3)]	2 4/14/11

1	Last day to:	1/28/11 [pursuant to <i>Order</i> <i>Setting Initial Case</i> <i>Management Conference and</i> <i>ADR Deadlines</i> (Dkt #3)]	4/28/11
2	• file Rule 26(f) Report, complete initial disclosures or state objection in Rule 26(f) Report, and file Case Management Statement		

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1 **IV. CONCLUSION**

2 The parties respectfully request that the Court revise the schedule as set
3 forth above.

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5 Respectfully submitted,

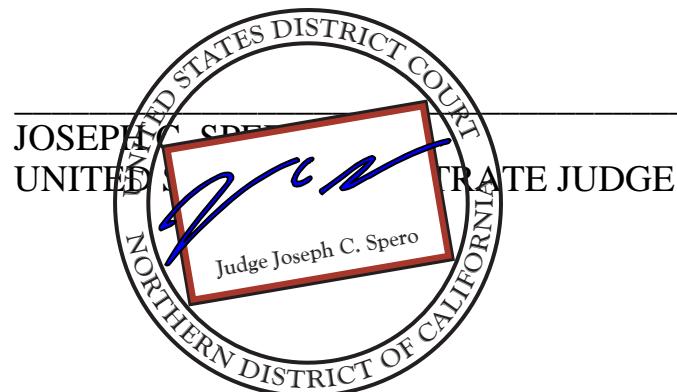
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7 DATED: December 15, 2010 /s/ Laura Fremont
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9
10 LAURA FREMONT
KENNETH H. ABBE
Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

11 (The filer attests that concurrence in the filing of this document has been
12 obtained from each of the other signatories.)

13
14 DATED: December 15, 2010 /s/Leslie Holmes
15 LESLIE HOLMES
16 Attorney for Defendants
17 WELLNESS SUPPORT NETWORK, INC.,
18 ROBERT HELD, and ROBYN HELD

19 PURSUANT TO STIPULATION, IT IS SO ORDERED.

20 DATED: 12/15/10



DECLARATION OF LAURA FREMONT

I, LAURA FREMONT, declare as follows:

1. I am an attorney with the Federal Trade Commission, the plaintiff in the above-captioned action. I make this Declaration in support of the foregoing Stipulation to Revise Schedule. I have personal knowledge of each of the following facts, and would and could competently testify thereto if called upon to do so in a court of law.

2. Reasons for the requested enlargement of time (Local Rule 6-2(a)(1)): The current deadlines to meet and confer regarding initial disclosures and discovery, and to complete initial disclosures and to file a Case Management Statement will take place before the Court makes a determination regarding papers responsive to the Complaint, which are expected to be filed by Defendants no later than December 29, 2010, and before the Court makes a determination regarding any motions Plaintiff may file relating to Defendants' Answer. The parties believe that the Court's rulings on matters relating to the pleadings will affect the focus and framing of issues in this case. Once the Court has made its determinations, the parties will be able to more accurately assess and agree upon such matters as discovery, scheduling, the facts and legal issues that remain in dispute, prospects for settlement, narrowing of issues, and other matters the parties are required to address in their Case Management Statement.

3. Disclosure of all previous time modifications (Local Rule 6-2(a)(2)): The FTC filed its Complaint (Dkt #1) in this matter on October 28, 2010. Defendants' initial deadline to respond to the Complaint was November 26, 2010. On November 24, 2010, the parties filed a stipulation to extend that deadline to December 29, 2010; to set the deadline for Plaintiff to file its opposition to any papers filed by Defendants responsive to the Complaint to January 14, 2011; and to set the hearing on such matters for February 4, 2011. The Court so ordered on November 29, 2010.

The parties have not previously requested the Court to modify the times set in the Court's *Order Setting Initial Case Management Conference and ADR Deadlines* (Dkt #3).

4. Description of the effect the requested time modification would have on the schedule for the case (Local Rule 6-2(a)(3)): The proposed time modifications would have no effect on the date for Defendants to respond to Plaintiff's complaint (as previously ordered), on the deadline for Plaintiff to oppose such response, or on the date set for the hearing on these matters. The requested time modifications would extend the time for those matters set in the *Order Setting Initial Case Management Conference and ADR Deadlines* (Dkt #3), but the parties believe doing so would add to the long-term efficient conduct of this case. The tasks to be performed as required by the *Order Setting Initial Case Management Conference and ADR Deadlines* would be performed more accurately and efficiently once the Court has made its determinations on motions relating to the pleadings.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this Declaration was executed on December 15, 2010, at San Francisco, California.

/s/Laura Fremont

Laura Fremont